

that it was ill-becoming and injudicious to legislate so hastily and ignorantly upon a measure believed to be of utmost importance to the manufacturing interest, the Lords were compelled, reluctantly, we believe, to postpone the Patent Law Amendment Bill till next session.

Although we are fully aware that in consequence of the dilatoriness with which the measure was advanced the different stages, it was perfectly competent for its opponents to prevent its passing; yet we cannot exonerate those who had charge of it altogether from blame. Would it not have been wiser for the Attorney-General to have resisted all attempts to alter the character of the Bill? to have divided on every occasion, if need be, and to have endeavoured to pass it as it came down, rather than to return it to the Lords so mutilated as to insure its loss? We imagine that, in his desire to effect some improvement, Sir Alexander Cockburn allowed his good nature to be too easily wrought upon, and adopted the suggested alterations of gentlemen who are the avowed enemies of any patent law at all.

"Timeo Danaos et dona ferentes."

We confess that we were much surprised to see so successful a barrister—one who has earned for himself the reputation of being what our American cousins would call an "awful 'cute chap'"—thus hoodwinked, and blindly led into the grievous error of invading the prerogative of the Crown, entrusted to the keeping of his superior, the Lord Chancellor of England, without previously consulting him. We allude to the acquiescence of the Attorney-General to the proposition to substitute a seal of Commissioners of Patents for the Great Seal of England, which is confided to the Lord Chancellor, and which it is his duty to order to be affixed to grants under letters patent from the Crown. That no discourtesy was intended we can readily believe, although it has every appearance of it. But it leads the world to suppose that there is not that good understanding, or that harmony of action, between the keeper of her Majesty's conscience and her Majesty's Attorney-General, both of whom it was intended should be Commissioners for Patents under the proposed Act, which, for the benefit of the public service, it is presumed should exist.

Whatever may have been the defects in the Bill, the public were willing to take it with all its imperfections, believing that time and practice would allow of their being easily and speedily ascertained. Further, that the injury they might cause until a short Act could be passed next session for their amendment would be amply compensated for by the general good—the cheapening of patents in the first instance, the security to poor inventors, and the destruction of patent pirates—which the passing of the Act would effect.

The conduct of Mr. G. L. Ricardo, Mr. Brunel, Mr. Cubitt, Lieut.-Col. Reid, and the Master of the Rolls, who, together with Lord Granville, constitute the six against all England for abrogating protection to intellectual property, is comprehensible; while that of Sir James Graham and Mr. T. Green is not, since they profess to wish to benefit inventors, and yet obstruct the passing of an Act that is to do so.

Let us, for the sake of illustration, take the case of a poor inventor, who has discovered a cheaper and simpler process of producing an article of very humble pretensions, but very general use. The idea was suggested to his mind by reflection and attentive observation. Previous study and the money spent in the prosecution of it we omit from consideration, because it appears to be the received opinion of these gentlemen that inventions are the results of accidents, like a man being born to a peerage.

Our inventor is possessed, then, of a notion, somewhat crude, for improving a process of manufacture. But before communicating it to his fellows, his employer, or the world, he is desirous of testing the truth of his conception; for men of this class and stamp are generally modest and diffident of their own merits and powers. His next step is to make the necessary experiment: to enable him to do

so funds are necessary. He therefore dispenses with his few enjoyments,—his extra pint of beer and jaunt into the country with his family perhaps,—and carefully hoards these savings, which he sometimes endeavours to increase by working overtime, or at something else when his regular day's labour is terminated. At last he has enough to commence with—the construction, perhaps, of a model apparatus. As he proceeds, according to his funds, new ideas develop themselves. He finds it necessary or more advantageous to give new shapes to some of the working facts, or to introduce some mechanical details that are employed in machines devoted to different purposes, or to effect a new combination of them. The labour of yesterday is rendered useless by the discovery of today. Still he proceeds gathering information from sources within his reach, and feeling his way, as it were, to the attainment of his object until he is suddenly arrested by an obstacle unseen and apparently insuperable. Then follows a period of sullen despair and almost heart-breaking grief, that few, save those who have experienced it, can imagine. The model is put aside unwillingly, and with many a sigh, while its maker returns to his daily toil; for he must labour to live. After a time grief yields to apathy, apathy to hope. The obstacle that appeared insuperable may be obviated, perhaps overcome. The workman takes out his model from the lumber closet, cleans and repairs it carefully,—for is it not the creature of his mind?—examines the difficulty, yet it baffles him. The cause of failure must be sought after, and when found, investigated. His spare time is now devoted to reading works on mechanics, chemistry, civil engineering, and to the inspection of machines in the neighbourhood. At last a faint glimmer of the true light breaks in upon him, which he carefully traces to its source, with caution and doubting; for he has before this been many times led from the right path by an *ignis fatuus*. On he goes, gathering strength, and storing up observation till the luminous source of knowledge is gained. Then to work again, reconstruct his model bit by bit, and day by day. Now it is completed. With what anxiety does it await the first trial. It is made. The invention succeeds. It is not for us to attempt to depict his joy; the scenes of future happiness and ease of those he loves beat which crowd his dreams at night, and throng his imaginings by day. They can be better understood than described. After a time he betinks him how to turn his invention to account. Naturally proud and wishful to show it, yet must he keep it a secret lest some patent-pirate lying in wait for such an occasion with an open patent, having a most comprehensive or rather indefinite title, pounce upon it, and clap it into his specification. Until within a few months such things were of common occurrence, and the true inventor had no redress.

The costliness of obtaining letters patent for the three kingdoms forbids him to think of doing so unaided, and he is compelled to seek assistance from a capitalist, to whom, as a *quid pro quo*, he assigns a share in the invention. Bad as is the position of an inventor under the old and unfortunately existing law, what would it be if the new order of things advocated by Mr. Ricardo and his five friends were introduced? In this case the man whom we have selected for example would, after years of actual physical and mental toil, have to trust to the generosity of his employer (!) to remunerate him for an invention which may make his fortune,—to beg for alms where he should be empowered to demand and enforce just and equitable payment. Without wishing to detract from the character of masters, they are still men, and as such liable to the commission of errors, to the perpetration of an act of injustice to an individual for their gain. Such things have been and are constantly done, and will be, we fear, until poor humanity is greatly changed,—purified of all its dross and selfishness.

Did it never occur to those gentlemen who preach the community of ideas,—the right of every one to appropriate the invention of another to his own profit without payment,—that their doctrine is identical with Communism of

the rankest, most extravagant, most poisonous and offensive nature, worse even than what was formalised by Babouf and practised by his followers, *des égaux*, during the excesses of the first French Revolution,—worse, infinitely worse, than the dogmas of Blanqui, Raspail, and Cabot.

It is certainly a novel, an unlooked-for, and a painful event to see six gentlemen of wealth, high standing, and presumed intelligence, join in the crusade against property. For we hold that one man has as clear and undoubted right to the produce of the labour of his brain as another has to that of his hands, and is as equally entitled, under wise laws, to be protected in the use and exploitation of it.

Have the enemies of intellectual property no fear that their teaching may take effect and become more extended in its application? that the poorer members of society may become so thoroughly convinced of the justice and wisdom of establishing *communautés des idées*, that they will insist upon *communautés des biens*? that they will say in the language of the reddest of the Rouges, "Take our inventions and discoveries: use them as you list. But, *aristo!* throw down thy coronet, admit us to share the privileges of thy order, and thy hereditary right to legislate for the nation. Millionaires! divide with us the wealth inherited from thy fathers, which they amassed in trade or commerce. And you who have achieved pre-eminence in your profession, as a lawyer, a builder, or engineer,—descend,—cast down the fortunes you have created and share with us in the drudgery of each occupation. Take you the pen and sag over the desk late and early,—you the trowel, and you the pick: *allons à l'œuvre!*"

The six apostles of this new doctrine never dreamt, probably, that it was capable of being so extended in its practice, and would doubtless be among the first to oppose its application in such manner. Yet, can they point out any difference between their preaching and that of the Icarians?

We have but one more fallacy in the teachings of these gentlemen to notice. It was asserted by Mr. Ricardo, and was to the effect: that all great inventions were made and communicated to the world without the incentive of reward by grant of letters patent; that it is still the custom of *savans* to publish their great and wonderful discoveries gratuitously; and that it was only petty inventions, such as in the manufacture of sealing-wax, &c. that were sought to be protected by patents. It will be necessary, in the first place, to ascertain as far as practicable, what is meant by "great discoveries." If he means discoveries in abstract sciences, the revelations of the existence of a new planet, or laws of nature, properties of bodies, or any phenomenon hitherto undreamed of, such as the circulation of the blood, the principle of gravitation, the law of storms, the spheroidal property of fluids,—then is Mr. Ricardo quite correct: discoveries of this kind never have been protected, nor do we see how they could be made the subject of patents; or, even if they were, how the discoverers would be benefited thereby. But if he means to state that great inventions of practical utility for the purposes of man have not been generally patented, especially during the last three centuries, then is the honourable gentleman entirely wrong. The examples instanced of gunpowder and printing are so *mal-à-propos* as to render the introduction of them ridiculous. Gunpowder and printing were both invented before patents for inventions were granted, and at a period when intellectual property was not understood, and as unsure from lawless violence as any other description of property. Inventions then were kept profound secrets, communicated under the most solemn and fearful oaths, and for want of the very protection now deprecated, often expired with their authors. So that society lost a permanent benefit, in the shape of a better and cheaper article of consumption, rather than reward the inventor by payment of royalty for fourteen years. Why, the most cursory inspection of the list of patents granted will show the falsehood of the proposition.